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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2034

JOHN P. SANDERS
P.O. Box 628
Murrieta, CA 92564

A C C U S A T I O N

Respiratory Care Practitioner
License No. 21339

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about February 18, 2000, the Respiratory Care Board issued Respiratory Care Practitioner License No. 21339 to JOHN P. SANDERS (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein. Said license is current with an inactive status and has an expiration date of October 31, 2007.

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4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

7. Section 3750.5 of the Code states, in pertinent part:

"In addition to any other grounds specified in this chapter, the board may deny, suspend, or revoke the license of any applicant or license holder who has done any of the following:

"(a) Obtained or possessed in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or administered to another, any controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety

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1 Code, or any dangerous drug as defined in Article 2 (commencing with section 4015) of
2 Chapter 9.

3 "(b) Used any controlled substance as defined in Division 10 (commencing
4 with Section 11000) of the Health and Safety Code, or any dangerous drug as
5 defined in Article 2 (commencing with section 4015) of Chapter 9.

6 "..."

7 8. California Code of Regulations (CCR), title 16, section 1399.370, states:

8 "For the purposes of denial, suspension, or revocation of a license, a crime or act
9 shall be considered to be substantially related to the qualifications, functions or duties of a
10 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
11 perform the functions authorized by his or her license or in a manner inconsistent with the
12 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
13 those involving the following:

14 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
15 abetting the violation of or conspiring to violate any provision or term of the Act.

16 "..."

17 COST RECOVERY

18 9. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

19 "In any order issued in resolution of a disciplinary proceeding before the board, the
20 board or the administrative law judge may direct any practitioner or applicant found to have committed
21 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
22 prosecution of the case."

23 10. Section 3753.7 of the Code states:

24 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
25 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
26 and service fees."

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28 11. Section 3753.1 of the Code states, in pertinent part:

1 "(a) An administrative disciplinary decision imposing terms of probation may include,
2 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
3 monitoring the probation."

4 12. Hydromorphone is a Schedule II controlled substance pursuant to Health and
5 Safety Code section 11055.

6 13. Propoxyphene (Norproxyphene) is a Schedule IV controlled substance
7 pursuant to Health and Safety Code section 11057.

8 FIRST CAUSE FOR DISCIPLINE

9 (Obtain or Possess A Controlled Substance)

10 14. Respondent is subject to disciplinary action under Code section 3750.5(a)
11 in that he possessed a controlled substance, to wit: Hydromorphone. The circumstances are as
12 follows:

13 A. On or about July 30, 2004, at approximately 0830,
14 Respondent's supervisor saw Respondent with a black bag which Respondent
15 stated contained "respiratory stuff."

16 B. At approximately 1100, Respondent's supervisor witnessed
17 Respondent on the second floor sitting with the black bag opened next to a dirty
18 syringe container on the floor next to the bag.

19 C. Later that day, Respondent's supervisor searched
20 Respondent's locker and found the following items: two opened bottles of
21 Hydroxyzine, syringes, band-aides, 4x4 pads, and adhesive remover. Respondent
22 was then sent to get a drug screen. While Respondent was being drug screened, his
23 supervisor returned to the locker and found the black bag. The supervisor found
24 the following in the black bag: needles and syringes, two syringes filled with a clear
25 liquid, two vials of Hydroxyzine and multiple packets of needles and IV start
26 equipment, and a vial of Hydromorphone with approximately 1 mg left in the vial.

27 D. Respondent was placed on an investigatory suspension
28 pending results from the drug screen.

1 E. The test results from Respondent's drug screen conducted
2 on July 30, 2004, came back positive for Hydroxyzine, Norpropoxyphene, and
3 Hydromorphone. Respondent was subsequently terminated from his employment
4 for being under the influence of a controlled substance and poor work performance.

5 SECOND CAUSE FOR DISCIPLINE

6 (Use of a Controlled Substance)

7 15. Respondent is further subject to disciplinary action under Code section
8 3750.5(b) in that he was under the influence of a controlled substance while working as a
9 respiratory care practitioner, as more particularly described in paragraph 15, above, which is
10 incorporated by reference as if fully set forth herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Violating Provisions of Respiratory Care Practice Act)

13 16. Respondent is further subject to disciplinary action under 3750 (g) and
14 CCR, title 16, section 1399.370(a) in conjunction with Code sections 3750.5(a) and 3750.5(b), in
15 that he violated or attempted to violate, directly, or indirectly, a provision or term of the
16 Respiratory Care Practice Act, as more particularly described in paragraphs 14 and 15, above,
17 which is incorporated by reference as if fully set forth herein.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

21 1. Revoking or suspending Respiratory Care Practitioner License No. 21339,
22 issued to JOHN P. SANDERS;

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26 2. Ordering John P. Sanders to pay the Respiratory Care Board the costs of
27 the investigation and enforcement of this case, and if placed on probation, the costs of probation
28 monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: June 28, 2006

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant